

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

PC Connection, Inc.

v.

Civil No. 10-cv-348-LM

Dayton Crabtree

O R D E R


On August 20, 2010, this court issued a temporary restraining order against the defendant, Dayton Crabtree. (Document no. 8). Pursuant to the terms of that order, a hearing was scheduled for Thursday, September 2, 2010, at which defendant "shall appear and show cause . . . as to why the relief granted in this TRO should not remain in effect until the final resolution of this matter."

The TRO specified that notice to the defendant of the September 2 hearing would be "good and sufficient" for purposes of Rule 65(a)(1) where "plaintiff . . . cause(s) a true copy of this TRO, along with all papers filed in support thereof; the Amended and Verified Complaint initiating this action; and the Summons issued herein, to be served upon defendant via overnight mail carrier, signature required, on or before August 24, 2010."

Plaintiff filed an Affidavit of Service with the court on August 25, 2010. (Document no. 9). That affidavit specifies that plaintiff has undertaken efforts to secure service by mail with signature, but to no avail. In addition, the court record reflects that service of summons and complaint has not been made upon the defendant pursuant to Fed. R. Civ. P. 4.

Accordingly, because sufficient notice, as defined by the terms of the TRO, has not been effected, and because, in any event, this court does not appear to have personal jurisdiction over the defendant, the court is holding in abeyance the hearing on the plaintiff's motion for preliminary injunction until such time as plaintiff comes forward with evidence sufficient to establish that notice and service have properly been accomplished. See Carty v. Rhode Island Department of Corrections, 198 F.R.D. 18, 20 (D.R.I. 2000). Cf. Northern Light Technology, Inc. v. Northern Lights Club, 236 F. 3d 57, 61 (1st Cir. 2001). The hearing scheduled for September 2, 2010, is therefore cancelled.

SO ORDERED.



Landya B. McCafferty
United States Magistrate Judge

Dated: September 1, 2010

cc: Anne E. Trevethick, Esq.
Steven E. Grill, Esq.